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UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS

Report of the Secretary-General

1. By letter of 31 January 1994, the Secretary General of the International Chamber of Commerce (ICC) requested the Commission to consider endorsing for world-wide use the 1993 version of the Uniform Customs and Practice for Documentary Credits (referred to hereinafter as "UCP 500", based on the ICC publication number). A short explanatory note on UCP 500 prepared by ICC is contained in annex I. The original text of UCP 500, in English, French or Spanish, is contained in annex II.

2. By way of general background, it may be noted that the subject of documentary credits has been a topic in which the Commission has taken an interest since the time of its inception, having endorsed earlier versions of UCP for world-wide use. The Commission endorsed the 1962 version of UCP at its second session, the 1974 version at its eighth session, and the 1983 version ("UCP 400") at its seventeenth session. [1]

[1] The endorsements by the Commission of the earlier versions of UCP are reported, respectively, in the reports of the second session (Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 18 (A/7618), paras. 90-95), the eighth session (Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 17 (A/10017), paras. 33-41) and the seventeenth session (Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 17 (A/39/17), paras. 125-129).

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ANNEX I

UCP 500 **EXPLANATORY NOTE**

As a result of the changes that have developed over the last ten years, the International Chamber of Commerce's Commission on Banking Technique and Practice has revised the Uniform Customs and Practice for Documentary Credits (UCP 400). The new Rules, known as UCP 500, became effective on January 1, 1994.

Documentary credits, also known as letters of credit, are often used to effect payment for goods in international trade. A bank in the buyer's country undertakes to pay the seller against presentation of documents giving shipment and other key details of the goods. Usually the credit is made payable to the seller at a bank in his own country. Payment may be at sight or on deferred terms. Credits frequently stipulate that drafts are to be presented for acceptance or negotiation.

The international rules of practice applied to these operations were first codified by the ICC in 1933. The last revision, UCP 400, was accepted in nearly every country, and was commended for use by UNCITRAL on July 6, 1984.

The 1993 revision addresses new developments in the transport industry and new technological applications, and is also intended to improve the functioning of the UCP. Some surveys indicate that approximately fifty percent of the documents presented under the documentary credit are rejected because of discrepancies or apparent discrepancies. This diminishes the effectiveness of the documentary credit and can have a financial impact on those involved in the product. It may also increase the costs and reduce the profit margins of importers, exporters and banks. The marked increase in litigation involving documentary credits has also been of great concern.

To achieve the objectives of the revision of the UCP 400, the ICC placed considerable emphasis on the integration of law and international business practice. The aims of the revision were (1) simplification of the rules; (2) an articulation of the banking practices as well as an effort to facilitate the development of these practices; (3) an improvement of the Articles to define the integrity of the Confirming Bank; (4) a need to address non-documentary conditions; and (5) a need to list the elements of acceptability for each type of transport document presented under a documentary credit.

In the end, the ICC's analysis was conducted by utilising various information sources available to the banking industry and the transport industry, and by drawing upon their own considerable knowledge of the technological innovation being applied in other industries engaged in international trade. In order to achieve general Rules, rather than specific procedural Rules, the ICC adopted as its working draft a document based on ICC National Committees' practices, important international judicial decisions, the Banking Commission's opinions and decisions, and case studies examined over the last twenty years. Consequently, the new revision of the UCP represents the culmination of extensive analysis, review, debate, and compromise amongst the various members of the Working Group, the members of the Banking Commission and the respective National Committees of the ICC.

Annex II
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